IN THE

# SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1974

No. 74-296

D. C. WILLIAMS,
Petitioner,

vs.

MATTHEWS COMPANY, JOHN MATTHEWS and
JAMES MATTHEWS,
Respondents.

## RESPONDENTS' OPPOSING BRIEF

Respondents as petitioners on August 3, 1974, in No. 74-63 filed a Petition for a Writ of Certiorari to review the June 20, 1974 judgment and opinion of the United States Court of Appeals for the Eighth Circuit, now reported in 499 Fed. 2d 819 (1974). Respondents reaffirm the matters set forth in their petition in No. 74-63 and continue their request for reinstatement of the judgment of the District Court, the relief sought by them in No. 74-63.

Inaccuracies appearing in the statement of the case in the petition of Mr. D. C. Williams are: on page 4 thereof, with respect to residential lots, there are no vacant residential lots in Lakewood, but all residential lots have been sold; on page 5 of his petition, reference is made about signs giving the price and size of lots, but the finding of the District Court with respect thereto is, "John Matthews testified, and the Court finds, that * * * since December 29, 1969, the Matthews Company has not sold lots to individuals and that no signs advertising the company's lots for sale have been posted, although a few older signs remained posted due to simple negligence on the part of company employees in failing to remove all of them" (Pet. p. A-19); in the first line of the second paragraph on page 6 of his petition, the September 20, 1973 Memorandum and Order of the District Court is incorrectly referred to as dated "September 20, 1974"; and, on page 6, the word "known" is incorrectly substituted for the word "shown" in the quotation from the June 20, 1974 opinion of the Court of Appeals, the correct reading of the first sentence of the quotation on page 6 should be, "We think that racial discrimination by the defendants in their real estate operations is shown as a matter of fact and law" (Pet. p. A-3). There is no basis for this quoted statement from the June 20, 1974 opinion of the Eighth Circuit. The findings of the District Court were that Petitioner, Mr. D. C. Williams, "was not denied the right to purchase real property because of his race. * * * He was in fact offered the opportunity to purchase on terms available to all persons. The procedure of selling to builders only was not adopted because of racial considerations and was not used, or intended to be used, as a ruse by which to exclude blacks" (Pet. p. A-31).

Mr. D. C. Williams on page 2 of his petition under "Issue Presented" refers to "a black plaintiff proves a major real estate developer has maintained a policy of racial discrimination", but the facts in the instant case are "plaintiff has not shown that any member of the alleged class except the individual plaintiff

has attempted to purchase property in Lakewood or other subdivisions developed by the Matthews Company" (Pet. p. A-31). This finding of the District Court is approved in the June 20, 1974 opinion of the Eighth Circuit (Pet. p. A-15).

The statements and arguments in the petition relating to "broad injunctive relief" have no application to the facts in the case at bar as found by the District Court. The recent case of *Schlesinger v. Reservists Committee to Stop the War*, 94 S. Ct. 2925 (1974) is to the effect that the Judiciary should not be open to an arguable charge of providing "government by injunction".

Respectfully submitted

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